

Natick Board of Health Regulations

Chapter 22

Mercury Regulations

Section 1. Definitions

A. Town means the Town of Natick

B. Mercury thermometer means a mercury-containing product that is used to measure body temperature. Such thermometers are also referred to as mercury fever thermometers. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or to permit a specific function.

C. Health care facility means any hospital, nursing home, extended care facility, long-term care facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

D. Manufacturer means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury fever thermometer. If the mercury thermometer is produced in a foreign country, the manufacturer is the importer or domestic distributor.

Section 2. Retail Sale Prohibited.

A person shall not sell or supply (including online retail from a location within the Town) mercury fever thermometers to consumers and patients, except by prescription. Display for sale in a manner permitting direct selection by the consumer is also prohibited under this section. With all mercury fever thermometers sold through prescriptions, the manufacturers shall supply clear instructions for the careful handling of the thermometer to avoid breakage and for proper cleanup and disposal should a breakage occur.

Section 3. Manufacturing Prohibited.

It is unlawful for any person to manufacture a mercury thermometer in the Town.

Section 4. Importation Prohibited.

It shall be unlawful for any health care facility to import, purchase, or distribute a mercury thermometer in the Town, except in the case of medical necessity as determined by a licensed physician.

Section 5. Restriction on the Sale of Mercury Thermometers.

- (a) Thirty (30) days after the adoption of this regulation, a person may not sell or supply mercury thermometers to consumers and patients, except by prescription.
- (b) Mercury thermometers which do not meet the definition outlined in Section 1, such as those used in industrial or laboratory processes, are exempt from these regulations. Users of these exempt thermometers are encouraged to employ less toxic alternative means of temperature measurement.

Section 6. Mercury-Containing Thermostats

- (a) Mercury-containing thermostats shall not be disposed of through any waste stream that results in their incineration, landfilling, discharge into the environment, or by any other method of disposal not approved by the Massachusetts Department of Environmental Protection and the Natick Board of Health.
- (b) It shall be the responsibility of the person or company removing or replacing such mercury-containing thermostats to properly dispose of such thermostats in accordance with these regulations and with any applicable State regulation.
- (c) Mercury-containing thermostats shall be disposed of through a Board of Health approved recycling program. Approved programs shall at a minimum document how they will accept, store, recycle and transfer each type of mercury-containing product accepted.

Section 7. Penalty.

- (a) Criminal Complaint – Whoever violates any provision of these rules and regulations may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be

\$500.00 for each offense.

- (b) Non-Criminal Disposition – Whoever violates any provision of these rules and regulations may, in the discretion of the Health Agent, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of the Massachusetts General Laws, Chapter 40, Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows: \$100.00 for the first offense; \$200.00 for the second offense; \$300.00 for the third and each subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.

BOARD OF HEALTH
Natick, Mass.

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